

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: CV - _____**

Christopher Durant,

Plaintiff,

-vs-

Capital Management Services Group Inc.,

Defendants.

COMPLAINT

JURY TRIAL DEMANDED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

PARTIES

2. Plaintiff Christopher Durant, is a natural person who resides in the City of Minneapolis, County of Hennepin, State of Minnesota and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
3. Defendant Capital Management Services Group Inc. (hereinafter “Defendant”) is a debt collection agency operating from an address of 726 Exchange Street, Suite 700, Buffalo, NY 14210, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

4. Sometime before January 1, 2005, Plaintiff allegedly incurred a consumer debt (as that term is defined by 15 U.S.C. § 1692a(5)) owed to US Bank.
5. Sometime prior to January 1, 2005 Plaintiff's alleged debt to US Bank was transferred to Defendant for collection.
6. Defendant began its collection campaign aimed at Plaintiff with telephone calls to which Plaintiff responded and requested that all future communication be done in writing.

7. Defendant at first complied and the calls temporarily ceased.
8. However, despite knowing Plaintiffs address and telephone number Defendant began calling Plaintiff's friend Dennis Koehler in violation of 15 U.S.C. §1692b, 1692d and 1692f.
9. Specifically, Defendant's agent Ms. James called Plaintiff's friend Koehler on or about February 1 and 14th, 2005.
10. Plaintiff called Defendant after learning of the calls to his friend and requested that it stop calling Mr. Koehler to which the rude female representative told Plaintiff, " Since you are not paying your debts we will not do special favors for you," in violation of 15 U.S.C. §1692d.
11. On February 15, 2005, Plaintiff called Defendant and requested the address so he could mail and written request for Defendant to cease contacting his friend.
12. Defendant's agent, Jerome told Plaintiff that the records already showed that information about wanting the calls to his friend to cease and then explained that his time was valuable and hung up on him.
13. As a result of Defendant's threatening conduct Plaintiff suffered emotional distress and anxiety.
14. All of the conduct in the paragraphs as described above by Defendant constitutes violations of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692b, 1692c, 1692d, and 1692f.

TRIAL BY JURY

15. Plaintiff is entitled to and hereby requests a trial by jury. US Const. amend. 7. Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692 ET SEQ.**

16. Plaintiff incorporates by reference paragraphs all preceding paragraphs as though fully stated herein.
17. The foregoing acts and omissions of the Defendant constitutes multiple and distinct violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. §§ 1692 et seq.
18. As a result of the Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in the amount of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter the following Judgment, in his favor:

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant; and
- for such other and further relief as may be just and proper.

Dated this 21st day of May, 2005.

Respectfully submitted,

CONSUMER JUSTICE CENTER, P.A.

By: s/Thomas J. Lyons, Jr.
Thomas J. Lyons Jr.
Attorney I.D. No.: 0249646
342 East County Road D
Little Canada, Minnesota 55117
Telephone: (651) 770-9707
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Christopher Durant, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Christopher Durant
Christopher Durant

Subscribed and sworn to before me
this 17th day of May, 2005.

s/Luke D. Heiken
Notary Public